

**2. Legislation Bill 2014 –  
Agreement with Keys’ amendments  
Motion carried**

HM Acting Attorney General to move:

*That the Council do agree with Keys’ amendments.*

**The President:** Item 2, Hon. Members, the Legislation Bill.  
I call on Her Majesty’s Acting Attorney General to move.

**The Acting Attorney General:** Thank you, Madam President.

The House of Keys, in its consideration of the Legislation Bill 2014, made a number of amendments, the first of which was at page 49, after line 33, inserting the following clause:

‘95 Declaration about effect of Transfer of Functions (Health and Safety) Order 2014

(1) In Part 1 of the Schedule to the Transfer of Functions (Health and Safety) Order 2014, after the words “the Department of Infrastructure” insert “relating to health and safety”.

(2) The amendment in subsection (1) is to be treated as having always had effect.

In consequence of this amendment –

(a) change the heading for Division 2 of Part 7 of the Bill (page 48, line 14) to:

“DIVISION 2 – SAVINGS, TRANSITIONALS AND MISCELLANEOUS”;

(b) renumber the subsequent clauses; and

(c) adjust cross-references accordingly.’

Madam President, and colleagues, this amendment inserts a new clause 95 into the Bill to deal with the effect of the Transfer of Functions (Health and Safety) Order 2014. The amendment to the 2014 Order makes it clear that only the functions of the Department of Infrastructure which were transferred are those relating to health and safety and not, as might be thought on the literal reading of the original wording, all that Department’s functions.

Let me be clear about this: the view of the Attorney General’s Chambers on this point is that a court would not, even without the present amendment, have construed the words literally because they would produce a result which is obviously not the one which was intended in the drafting of the Order. That said, they have also advised – and this is my Chambers – that it is desirable to deal with the matter once and for all and include the amendment which is now proposed.

The House of Keys then went on in its consideration of the Legislation Bill 2014 also to make an amendment at:

‘Page 52, after line 27 of the Bill insert the following subsection –

(1) In section 2 of the Criminal Code 1872 for “the death of the eldest son” substitute “the death of the eldest child”.

Renumber the subsequent subsections of the clause and adjust cross-references accordingly.’

Madam President and Hon. Members, this amendment to the Criminal Code 1872 reflects the recent decisions around the Commonwealth that, in the future, the eldest child of the Sovereign, regardless of gender, will be the heir to the throne. Section 2 of the 1872 Code deals with the offence of high treason consisting of encompassing the death of the eldest son of the Sovereign being the heir apparent; henceforth, the eldest son of the Sovereign will not necessarily be the heir apparent, and this change is needed to keep the Criminal Code 1872 in line with the corresponding provision of the Treason Act 1351 of Parliament.

The 1351 Act will be modified by paragraph 1 of the schedule 1 to the Succession of the Crown Act 2013 of Parliament after the last of Her Majesty’s realms has approved the change to the succession, which is expected later this year. It is therefore desirable to keep our legislation on this subject in step with that in the United Kingdom.

Finally Madam President, the Keys also in its consideration of the Legislation Bill 2014 made amendment at page 53, after line 21 to insert subsection (6):

'In section 13 of the Coroner of Inquests Act 1987 –  
(a) in subsection (1)(a)(ii) after "section 1" insert "2B, 3A or 3B"; and  
(b) in subsection 6(b) –  
(i) after "section 1" insert "2B, 3A or 3B"; and  
(ii) for "(causing death by reckless driving)" substitute "(causing death by driving in certain circumstances)".  
Renumber the subsequent subsections of the clause and adjust cross-references accordingly.'

Madam President and Hon. Members, this amendment passed by the Keys was so considered by them at the request of the High Bailiff in his capacity of Coroner of Inquests. At present, if a person is charged with an offence of murder, manslaughter or causing death by dangerous driving, on their committal for trial by the Court of General Gaol Delivery any inquest into the relevant death is adjourned and, if the accused is convicted, it need not be resumed. This is because the conviction by the Court of General Gaol Delivery disposes of all the questions before the Coroner under section 12(3) of the Coroner of Inquests Act 1987; namely, who the deceased was and how, when and where, how he or she came by his or her death.

At present, where a person is convicted of causing death by careless or inconsiderate driving, causing death by careless or inconsiderate driving whilst under the influence of drink or drugs, or causing death by driving while unlicensed, uninsured or disqualified, the Coroner of Inquests is obliged to resume the inquest after the conviction of the accused.

These new offences were added to the Road Traffic Act 1985 by the Road Traffic and Highways (Miscellaneous Amendments) Act 2012. The consequential amendment to the 1987 Act was missed and this amendment reflects and rectifies the position and brings the treatment of these offences into line with other motoring offences, of which causing death is an integral part.

Madam President, I beg to move that the motion standing in my name do pass.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President. I beg to second, and reserve my remarks.

**The President:** Before we just go a little further may I clarify a point, please?

I think you said, in terms of the amendments to clause 98, you referred to a new subsection (6), whereas our printed version says (7). I think that can be explained because in the Green Bill it would be (6) but they are going to be renumbered.

Is that correct?

**The Acting Attorney General:** Madam President, it appears so, I am working from the Green Bill.

**The President:** Right, you are working from the Green Bill?

So (5) will become (6) on the Green Bill, page 53, and (6) will become (7); but we are putting in a new (7), so (7) will become (8).

Is that clear?

**The Acting Attorney General:** I am very grateful for that, Madam President. *(Laughter)*

**The President:** Right, we are now open to debate.

The Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

I support the motion before us but I think, if it is helpful to Members of Council, just to explain a bit about the transfer of functions for the Department of Infrastructure relating to health and safety.

Having served in both DOI and DEFA, I know a little bit of the background to this and it might be worth just having on the record as to why these functions have moved around, for the information of people who may be reading this at a later date and for Members this morning.

The Health and Safety Directorate and the Environmental Health Directorate were both part of the same group when it was the Department of Local Government and the Environment. When the Departments were split in 2010, Health and Safety went to the Department of Infrastructure, but Environmental Health went to DEFA, on which I was serving at the time. The officers in Environmental Health flagged up that there was actually a drawback in that they were visiting premises, they would see things that were previously part of their remit under Health and Safety and it resulted in a second visit from an officer from another Department having to visit the premises. It was a very inefficient way of dealing with matters.

So they had a look at maybe bringing these bodies back together and what we are seeing is the culmination of that where Environmental Health, already moved to DEFA Health and Safety, are also are going to re-join them as DEFA becomes more of a body looking at regulation, and that sort of thing. So, as the Attorney said, when the Order was done it could have been construed as the entire functions of the Department of Infrastructure were transferred in that Order, so this does tidy it up.

I hope that just gives a bit of a background as to where the two Divisions came from and why they have come back together, and it might just help people in the future understand the reasons for why these things are moving about.

**The President:** Do you want to make any comment, learned Acting Attorney General?

**The Acting Attorney General:** If I may, very briefly, Madam President, take this opportunity to thank my seconder, the hon. Mr Coleman; and also to thank the Hon. Member of Council, Mr Turner, for the clarification which he has kindly provided us all with.

With that, Madam President, I beg to move the motion standing in my name.

**The President:** Hon. Members, the motion is that Council do agree with the Keys' amendments. Those in favour, please say aye; against no. The ayes have it. The ayes have it.

That concludes consideration of our Order Paper this morning, Hon. Members; a very short introduction to our new Members to Council's work, but I am sure you will have seen the significance of spotting errors – I think we have to thank the Hon. Member, Mr Coleman, for that.

**The Acting Attorney General:** Yes, thank you.

**The President:** Council will now adjourn, Hon. Members, until Tuesday of next week.